

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

DAVID P. LAPCEVIC,)	
)	
Plaintiff,)	Case No. 2:09-cv-564
)	
v.)	Judge Terrence F. McVerry
)	Magistrate Judge Lisa Pupo Lenihan
STRIVE ENTERPRISES, INC., JOHN)	
SALVITTI, BUZZ GARDNER, and)	Doc. No. 24
DR. E. RONALD SALVITTI,)	
Defendants.		

MEMORANDUM ORDER

The complaint in the above captioned case was received by the Clerk of Court on May 7, 2009, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (Doc. No. 30), filed on April 8, 2010, recommended that Defendants' Motion to Dismiss the Second Amended Complaint (Doc. No. 24) be granted with regard to Plaintiff's claims of aiding and abetting and employment discrimination under Title VII and the Pennsylvania Human Relations Act ("PHRA") as against Dr. E. Ronald Salvitti. The Report and Recommendation further recommended that the Defendants' Motion to Dismiss the age discrimination claim under the Age Discrimination in Employment Act and the PHRA be granted as to all Defendants. The Report and Recommendation further recommended that Defendants' Motion to Dismiss be denied with regard to Plaintiff's claim of retaliation under Title VII and the PHRA. The Report and Recommendation further recommended that Defendants' Motion

for More Definite Statement (Doc. No. 24) be granted as to Count II of Plaintiff's Second Amended Complaint in its entirety and as to Count III of Plaintiff's Second Amended Complaint only as it pertains to John Salvitti and Buzz Gardner. Service was made on all counsel of record. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. No objections were filed to the Report and Recommendation.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 3rd day of May, 2010,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants (Doc. No. 24) is **GRANTED** with regard to the claims of aiding and abetting and employment discrimination under Title VII and the Pennsylvania Human Relations Act as against Dr. E. Ronald Salvitti, and said claims against Dr. E. Ronald Salvitti are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Motion to Dismiss (Doc. No. 24) the age discrimination claim under the ADEA and PHRA is **GRANTED** as to all Defendants, and said claim is **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED that the Motion to Dismiss (Doc. No. 24) is **DENIED** with regard to Plaintiff's claim of retaliation under Title VII and the PHRA.

IT IS FURTHER ORDERED that Defendants' Motion for More Definite Statement (Doc. No. 24) is **GRANTED** as to Count II of Plaintiff's Second Amended Complaint in its

entirety, and as to Count III of Plaintiff's Second Amended Complaint only as it pertains to John Salvitti and Buzz Gardner. Plaintiff shall file a third amended complaint, on or before May 17, 2010, specifically addressing the issues outlined in the Report and Recommendation.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 30) of Magistrate Judge Lenihan, dated April 8, 2010, is adopted as the opinion of the Court.

TERRENCE F. McVERRY
United States District Judge

cc: All Counsel of Record
Via Electronic Mail